

**UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA**

United States of America,

Case No. 2:14-cr-00085-APG-DJA

Plaintiff,

V.

Kenneth Gordon Wescott,

## **Order Denying Defendant's Motion for Hearing Concerning Equitable Tolling**

## Defendant.

[ECF No. 535]

Defendant Kenneth Gordon Wescott filed a motion requesting an evidentiary hearing to determine whether he qualifies for equitable tolling for a motion for relief under 28 USC § 2255. He intends to file ECF No. 535. I deny the motion as premature.

Wescott previously moved for a determination whether he qualified for equitable tolling. No. 511. I denied that motion without deciding the merits because it was premature. ECF 6. I held that I lack authority to consider whether equitable tolling applies until after Wescott files his § 2255 motion. *Id.* Wescott's present motion is likewise premature because he has not yet had the opportunity to determine whether he qualifies for equitable tolling before he files his motion. I therefore deny his present motion.

I THEREFORE ORDER that Mr. Wescott's motion (**ECF No. 535**) is **DENIED** without prejudice to seek equitable tolling after he has filed his § 2255 motion.

Dated: December 14, 2022.

ANDREW P. GORDON  
UNITED STATES DISTRICT JUDGE